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26 Danny Allen, Jr.

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28 **UNITED STATES DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA

1 **DANNY ALLEN, JR.,**

2 Plaintiff,

3 v.

4 **CAPITAL ONE SERVICES, LLC,**

5 Defendants.

6 Case No.: '12CV1705 IEG BLM

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8 **COMPLAINT FOR DAMAGES FOR**
VIOLATIONS OF THE FAIR CREDIT
REPORTING ACT, 15 U.S.C. §§ 1681, ET
SEQ.

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10 **JURY TRIAL DEMANDED**

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INTRODUCTION

1. Plaintiff Danny Allen, Jr. (“Plaintiff”), through his attorneys, brings this lawsuit to challenge the actions of Defendant Capital One Services, LLC (“Defendant”), with regard to erroneous negative and derogatory reports regarding credit information reported by Defendant to national credit reporting agencies, as well as for the negligent and malicious failure of Defendant to properly investigate the repeated disputes of Plaintiff concerning the validity of certain alleged debts that Defendant claimed was owed Defendant by Plaintiff, and the failure of Defendant to correct the derogatory and negative credit information placed in the Plaintiff’s credit file by Defendant, which Defendant knew, or should have know, was erroneous, and which caused Plaintiff damages.
2. Plaintiff makes these allegations on information and belief, with the exception of those allegations that pertain to a plaintiff, or to a plaintiff’s counsel, which Plaintiff alleges on personal knowledge.
3. While many violations are described below with specificity, this Complaint alleges violations of the statutes cited in their entirety.
4. Unless otherwise stated, all the conduct engaged in by Defendant took place in California.
5. Any violations by Defendant were knowing, willful, and intentional, and Defendant did not maintain procedures reasonably adapted to avoid such violation.

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JURISDICTION AND VENUE

6. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331, 15 U.S.C. § 1692(k) and 28
U.S.C. § 1367 for supplemental state claims.
7. This action arises out of Defendant's violations of the Fair Credit Reporting Act, 15
U.S.C. §§ 1681 et seq. ("FCRA").
8. Because Defendant does business within the State of California, personal jurisdiction is
established.
9. Venue is proper pursuant to 28 U.S.C. § 1391.

PARTIES

10. Plaintiff is a natural person who resides in the State of California.
11. Defendant is located in the City of Mclean, in the State of Virginia who regularly
conducts business in the County of San Diego.
12. Defendant is a "furnisher of information" as contemplated by FCRA section 1681s-2(a)
& (b), that regularly and in the ordinary course of business furnish information to one or
more consumer reporting agencies about consumer transactions or experiences with any
consumer.

FACTUAL ALLEGATIONS

20. On or about March 2005, a Capital One Visa account was opened under Plaintiff's name
without Plaintiff's consent or knowledge.
22. Similarly, on or about July 2007, a Capital One Mastercard account was opened under
Plaintiff's name without Plaintiff's consent or knowledge.
25. On or about June 2010, a collections agency working for Defendant notified Plaintiff that
Plaintiff owed \$500.00 for a credit card opened in March of 2005 and \$300.00 for
another credit card opened in July 2007 plus penalty fees.

1 16. On January 5, 2012, Plaintiff reported the fraudulent opening of the two Capital One
2 cards to the Sheriff's Department County of San Bernardino, California and filed a police
3 report.

4 17. Once aware of these charges, Plaintiff contacted Defendant to inform Defendant that
5 Plaintiff did not open these accounts but that Plaintiff was a victim of fraud and disputed
6 the status of such accounts with the three major credit bureaus, Equifax, TransUnion, and
7 Experian in an attempt to have the inaccurate and negative credit reporting items
8 removed from Plaintiff's credit reports.

9 18. Subsequently, Equifax, TransUnion, and Experian sent request for Defendant to make an
10 appropriate investigation, as required by the FCRA, into Plaintiff's claims.

11 19. In response to Plaintiff's dispute, on April 24, 2012, Defendant sent Plaintiff a letter
12 stating that Plaintiff's account ending in 5451 was sold to Portfolio Recovery Associates,
13 LLC and Plaintiff's account ending 6753 was sold to West and, therefore, Defendant
14 cannot assist Plaintiff with this matter.

15 20. To this day, Defendant has failed to rectify the inaccurate credit information yet
16 Defendant continues to report the inaccurate credit information.

17 21. After conducting a negligent, and improper, investigation, Defendant continued to
18 improperly report Defendant as the owner of these accounts.

19 22. The above actions by Defendant violated 15 U.S.C. §§1681 et seq., including, but not
20 limited to, 15 U.S.C. §§1681s-2, in that Defendant failed to adequately investigate or
21 reinvestigate the Plaintiff's claim that the derogatory information filed was inaccurate
22 and thereafter correct this inaccurate information. As a result, Plaintiff suffered
23 considerable damage.

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CAUSES OF ACTION

COUNT I

VIOLATIONS OF THE FAIR CREDIT REPORTING ACT

15 U.S.C. §§ 1681 ET SEQ.

23. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.
24. The foregoing acts and omissions of this Defendant constitute numerous and multiple violations of the FCRA, including, but not limited to, each and every one of the above-cited provisions of the FCRA, 15 U.S.C. §§ 1681 et seq.
25. As a result of Defendant's willful noncompliance of the FCRA, Plaintiff has suffered and is entitled to actual damages sustained by Plaintiff or damages of not less than \$100 and not more than \$1,000 pursuant to 15 U.S.C. § 1681n(a)(1)(A); such amount of punitive damages as the court may allow pursuant to 15 U.S.C. § 1681n(a)(2); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1681n(a)(3), from each and every Defendant.
26. As a result of Defendant's negligent noncompliance of the FCRA, Plaintiff has suffered and is entitled to actual damages sustained by Plaintiff pursuant to 15 U.S.C. § 1681o(a)(1); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1681o(a)(2), from Defendant.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant, and Plaintiff be awarded damages from Defendant, as follows:

- an award of actual damages in an amount to be determined at trial or damages of a maximum of \$1,000 pursuant to 15 U.S.C. § 1681n(a)(1)(A) against Defendant for each incident of willful noncompliance of the FCRA;
- an award of such amount of punitive damages as the court may allow pursuant to 15 U.S.C. §1681n(a)(2) against Defendant for each incident of willful noncompliance of the FCRA;
- an award of actual damages in an amount to be determined at trial pursuant to 15 U.S.C. § 1681o(a)(1) against Defendant for each incident of negligent noncompliance of the FCRA;
- an award of costs and litigation and reasonable attorney's fees pursuant 15 U.S.C. § 1681n(a)(3) and 15 U.S.C. § 1681o(a)(2) against Defendant for each incident of noncompliance of the FCRA;
- any other relief that the court deems just and

TRIAL BY JURY

27. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: July 9, 2012

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: /s/ Abbas Kazerounian
ABBAS KAZEROUNIAN, ESQ.
ATTORNEY FOR PLAINTIFF